

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**FRED H. KELLER, JR.,
JUAN ARMENTA, JUAN DOE,
JUANA DOE and JUANA DOE #2,**

Plaintiffs,

v.

CITY OF FREMONT,

Defendant.

CASE NO. 8:10CV270

CERTIFICATION REQUEST

**MARIO MARTINEZ, JR., PAOLA
MERCADO, JANE DOE, MARIA ROE,
STEVEN DAHL, AND ACLU NEBRASKA
FOUNDATION,**

Plaintiffs,

v.

**CITY OF FREMONT; DEAN F. SKOKAN,
JR., IN HIS OFFICIAL CAPACITY AS
FREMONT CITY ATTORNEY; AND
TIMOTHY MULLEN, IN HIS OFFICIAL
CAPACITY AS FREMONT CHIEF OF
POLICE,**

Defendants.

CASE NO. 4:10CV3140

Pursuant to Neb. Rev. Stat. § 24-219 (Reissue 2008), the United States District Court for the District of Nebraska respectfully requests that the Nebraska Supreme Court exercise its discretion to answer the following question of Nebraska law which may be determinative of a cause now pending in this Court, and as to which it appears that there is no controlling precedent in the decisions of the Nebraska Supreme Court:

May a Nebraska city of the first class, that is not a "home rule" city under Article XI of the Nebraska Constitution and has not passed a home rule charter, promulgate an ordinance placing conditions on persons' eligibility to occupy dwellings, landlords' ability to rent dwellings, or business owners' authority to hire and employ workers, consistent with Chapters 16, 18, and 19 of the Revised Statutes of Nebraska?

This controversy arose from voters' adoption of Fremont Ordinance 5156, on June 21, 2010. A copy of the Ordinance is attached. Although the Ordinance was to become effective June 29, 2010, the Fremont City Council voted on June 27, 2010, to stay its enforcement until 14 days after issuance of final decisions in the above-captioned cases, filed in this Court on June 21, 2010, in which the Plaintiffs challenge the legality of the Ordinance on grounds of both state and federal law.

If the Nebraska Supreme Court accepts the question and its answer suggests that the Ordinance is valid under state law, this Court will exercise its jurisdiction over the federal questions presented. If the Nebraska Supreme Court accepts the question and its answer suggests that the Ordinance is invalid under state law, this Court will entertain a motion to dismiss the remaining federal questions as moot. If the Nebraska Supreme Court declines to accept the question, or the question is deemed rejected upon the expiration of sixty days after the Nebraska Supreme Court's receipt of this request, then this Court will consider whether abstention is appropriate under *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496 (1941), to enable the parties to pursue available state remedies and to avoid unnecessary federal interference in state operations.

RESPECTFULLY SUBMITTED,

DATED this _____ day of _____, 2010.

BY THE COURT:

United States District Judge